

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:17-CR-
	§	00103-ALM-AGD
BRIAN BAUDER	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the court is the request for revocation of Defendant Brian Bauder's supervised release. After the District Judge referred the matter to this court for a report and recommendation, the court conducted a hearing on November 14, 2023, to determine whether Defendant violated his supervised release. Defendant was represented by Douglas Schopmeyer of the Federal Public Defender's Office. The Government was represented by William Tatum.

Defendant was sentenced on April 4, 2018, before The Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense of Felon in Possession of a Firearm, a Class C felony. This offense carried a statutory maximum imprisonment term of 10 years. The guideline imprisonment range, based on a total offense level of 17 and a criminal history category of IV, was 37 to 46 months. Defendant was subsequently sentenced to 37 months imprisonment followed by a 3-year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, alcohol abstinence, drug testing and treatment, and a \$100 special assessment.

On August 4, 2020, Defendant completed his period of imprisonment and began service of the supervision term. However, on January 18, 2022, Defendant's term of supervised release was revoked due to an arrest for Public Intoxication, consuming alcohol, using methamphetamine, and failing to submit to random urinalysis collection. He was subsequently sentenced to 12 months imprisonment

followed by a 12-month term of supervised release. On October 20, 2022, Defendant commenced the current term of supervised release. On December 18, 2020, this case was reassigned to The Honorable District Judge Amos L. Mazzant, III.

On August 31, 2023, the United States Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision (Dkt. #63, Sealed). The Petition asserts that Defendant violated three (3) conditions of supervision, as follows: (1) Defendant shall not commit another federal, state, or local crime; (2) Defendant must refrain from any unlawful use of a controlled substance; and (3) Defendant must participate in a program of testing and treatment for substance abuse and follow the rules and regulations of that program until discharged. The probation officer, in consultation with the treatment provider, will supervise Defendant's participation in the program. Defendant must pay any cost associated with treatment and testing.

The Petition alleges that Defendant committed the following acts: (1) On August 6, 2023, Defendant was arrested by the Dallas, Texas Police Department for committing the offense of Assault Family Violence-Bodily Injury. On August 9, 2023, Defendant posted a \$7,500 bond and was released from the custody of the Dallas County Jail, Dallas, Texas. Per the offense report, Defendant is alleged to have struck the victim, Shazia Shafiq, with a closed fist on her right cheek. He is also alleged to have pushed Ms. Shafiq, causing her to hurt her right thumb. Ms. Shafiq was assessed to have non-severe injuries; she declined additional medical attention; (2) On October 26, 2022, Defendant submitted a urine specimen at the U.S. Probation Office which tested positive for oxycodone. The specimen was sent to Alere Toxicology Services and confirmed as positive. On November 29, 2022, Defendant submitted a urine specimen at the U.S. Probation Office which tested positive for Methylenedioxymethamphetamine (MDMA), and Extended Opiates (codeine). The specimen was sent to Alere Toxicology Services and confirmed as positive. On December 1, 2022, Defendant submitted a urine specimen at NOC Clinical Counseling and Consulting, McKinney, Texas, and provided a specimen which tested positive for

Extended Opiates (morphine). The specimen was sent to Alere Toxicology Services and confirmed as positive. On August 16, 2023, Defendant submitted a urine specimen at the U.S. Probation Office which tested positive for methamphetamine and oxycodone. Defendant admitted both verbally and in writing to using non-prescription Xanax, on August 15, 2023; and (3) On July 28, 2023, Defendant was unsuccessfully discharged from substance use treatment due to failure to utilize and apply skills taught during the course of treatment. Defendant failed to accept or address identified cognitive distortions, nor was he receptive to therapeutic intervention.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation 2 of the Petition and the Government moved to dismiss allegations 1 and 3. Having considered the Petition and the plea of true to allegation 2, the court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of imprisonment of fifteen (15) months with no term of supervised release to follow. The court also recommends that Defendant be housed in the Bureau of Prisons facility in Texarkana, Texas, if appropriate, and that allegations 1 and 3 should be dismissed.

SIGNED this 1st day of January, 2024.


AILEEN GOLDMAN DURRETT
UNITED STATES MAGISTRATE JUDGE